

**CALVERT COUNTY  
OFFICE OF THE COUNTY ATTORNEY**

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BOARD OF COUNTY COMMISSIONERS

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Wilson H. Parran  
Susan Shaw  
Barbara A. Stinnett

November 30, 2007

Max Munger, President  
Drum Point Property Owners' Association  
401 Lake Drive  
Lusby, Maryland 20657

RE: State Highway User Revenues

*Max*  
Dear ~~Mr.~~ Munger:

Enclosed for your records is a copy of the Deed of Public Access Easement and Agreement which was duly recorded among the Land Records of Calvert County, Maryland on November 28, 2007, in Liber KPS 3088, folio 500.

Very truly yours,

*Emanuel Demedis*  
Emanuel Demedis

Enclosure

DEED OF PUBLIC ACCESS EASEMENT  
AND AGREEMENT

This Deed of Public Access Easement and Agreement ("Agreement"), made this 19th day of November, 2007, by and between the Drum Point Property Owners' Association, a non-profit corporation of the State of Maryland, hereinafter called "Grantor", and Board of County Commissioners of Calvert County, Maryland, hereinafter called "Grantee."

LR IMPROVE SU 0.00  
RECORDING FEE 0.00

WHEREAS, Grantor is a non-profit corporation of the State of Maryland, which, by virtue of a deed recorded among the land records of Calvert County, Maryland, at Liber 683 folio 266, is the fee simple owner of the roads and rights-of-way for said roads in all sections of the subdivision known as Drum Point in the First Election District of Calvert County, Maryland; and

TOTAL 0.00  
Rest 0.00 Rpt 4599593

WHEREAS, the general purpose of Grantor, as set forth in the various declarations of conditions, covenants, restrictions, and easements as recorded among the Land Records of Calvert County, Maryland, is to exist as the entity delegated and assigned the powers and duty of maintaining and administering the community properties and facilities, including roads, and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges created under such covenants; and

KPS SES BIK#1419  
Nov 20, 2007 12:21 PM

WHEREAS, various subdivision plats were recorded among the plat records of Calvert County Maryland, for the purpose of establishing lots and a network of roads within the Drum Point Subdivision; and

WHEREAS, pursuant to Title 8, Subtitle 4 of the Transportation Article of the Annotated Code of Maryland, the State Highway Administration maintains a Gasoline and Motor Vehicle Revenue Account from which funds, called "State Highway User Revenues" (SHUR), are allocated to the various political subdivisions of the state, including Calvert County, for the purpose, among other things, of maintaining county roads.

WHEREAS, Section 8-101(g) of the Transportation Article of the Annotated Code of Maryland, defines "county road" as: ". . .any public highway: (1) The title to which or the easement for the use of which, is vested in a public body or governmental agency; and (2) That is not a State highway or located in Baltimore City."

WHEREAS, to financially assist Grantor in maintaining the roads, Grantor has requested that Grantee include in its inventory of public roads of Calvert County for the purpose of calculating Grantee's share of the state highway user revenues, various roads within the Drum Point Subdivision that meet the criteria established by the Grantee and the State Highway Administration and to remit to Grantor the portion of Grantee's SHUR that Grantee may determine should reasonably be remitted to Grantor.

Now, therefore, this Deed of Public Access Easement and Agreement witnesseth:

The Grantor does hereby grant to Grantee, its successors and assigns, for the purpose of general free public use, an easement and right-of-way over, across and through all those roads, portions of roads and rights-of-way as more particularly set forth in Exhibit A, attached hereto and made a part hereof, without restrictive gates, prohibitive signs, or regulations other than restrictions based on size, weight or class of registration, said roads and rights-of-way encompassing certain of the roads presently existing within the Drum Point Subdivision and owned by the Grantor (the "Roads").

To have and to hold the easement and right-of-way unto the Grantee for use by the general public as public ways in connection with the public roads system of Calvert County, Maryland, subject to paragraph 8 below.

Grantor and Grantee hereby agree that:

1. Grantor is and shall remain responsible for the maintenance of all those roads set forth in Exhibit A as required by the declarations, whether or not SHUR funds are received.

2. Grantor and Grantee incorporate by reference herein the Criteria for Public Easement Roads and Use of State Highway User Revenues in Exhibit B, attached hereto and made a part hereof, which criteria may be subject to change in the future as stated therein.

3. Grantee has no obligation to provide funds to Grantor, other than as contemplated by the terms of this Agreement and pursuant to the procedures and formula set forth in Exhibit B, attached hereto and made a part hereof.

4. The easement herein granted by Grantor to Grantee shall not confer upon Grantee any right to place utilities in the rights-of-way of the roads or confer any other rights to Grantee.

5. Nothing in this document shall be construed to mean that the Grantee is in any way obligated to accept ownership of and/or responsibility for the maintenance of the roads or roadbeds described in attached Exhibit A.

6. The Grantor shall not claim or attempt to claim any SHUR, as provided for in Title 8, Subtitle 4 of the Transportation Article of the Annotated Code of Maryland, to which it believes it may be entitled other than as provided in this grant of easement.

7. The Grantor hereby indemnifies and holds the county harmless from all liability associated with the maintenance of the association roads included in the Grantee's road inventory report and the expenditure of the SHUR.

8. This Public Access Easement and Agreement shall terminate on June 30, 2009, and shall bind the Grantor, its successors and assigns.

The Grantor warrants specially said easement and it will execute such further assurances thereof as the Grantee may request.

In witness whereof, the parties hereto have executed this Deed of Public Access Easement and Agreement as of the date and year first herein written.

~~Grantee~~

Grantor: Drum Point Property Owners' Association

by: Max Munger  
Max Munger, President

Grantee: Board of County Commissioners of Calvert County

by: Wilson H. Parran  
Wilson H. Parran President

STATE OF MARYLAND, COUNTY OF CALVERT, to wit:

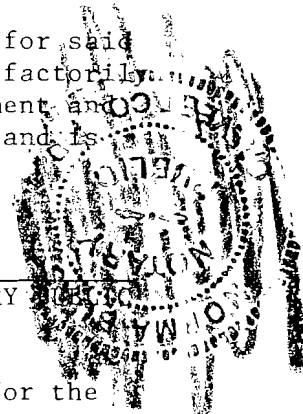
On this 28<sup>th</sup> day of November, 2007, before me, a Notary Public in and for said State and County, personally appeared Max Munger, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes stated therein and is duly authorized to so do on behalf of the Grantor.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

My Commission Expires: 10/1/2010

Norma Buss

NOTARY



STATE OF MAYLAND, CALVERT COUNTY, to wit:

On this 27th day of November, 2007, before me, a Notary Public in and for the State and County aforesaid, personally appeared Wilson H. Parran, President of the Board of County Commissioners of Calvert County, Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes stated therein and is duly authorized to so do on behalf of the Grantee.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

My Commission Expires: 10/1/2010

Norma Buss

NOTARY



## DRUM POINT

DRUM POINT			
Anchor Drive	Johnson Drive	Seagull Lane	
Bay Drive	Lake Drive	Ships Way	
Bay View Drive	Lake Lane	Skyview Lane	
Beech Drive	Lake Place	Surf Drive	
Blue Jay Drive	Lake Terrace	Valerie Lane	
Buckler Drive	Lakeview Drive – Near Lake Charming	Vista Drive	
Calvert Court	Lake View Drive – Bay View Dr to Bay Dr	Walnut Terrace	
Calvert Drive	Laurel Way	Walsh Lane	
Calvert Terrace	Leason Cove Drive	Valerie Lane	
Captain's Way	Lessin Drive – River View Dr to end		
Cardinal Drive	Lessin Drive – Walsh Lane to end		
Chestnut Drive	Lessin Drive – Barreda Blvd Westerly to end		
Court David	Lessin Drive – Barreda Blvd to Huron Dr		
Cove Drive	Marine Drive		
Cove Lane	Marine Terrace		
Cree Drive	McMichaels Drive		
Deer Court	Mill Creek Drive		
Deer Drive	Mills Creek Drive		
Deer Lane	Mohawk Drive		
Delaware Drive	Noni's Way		
Dogwood Drive	Oak Drive		
Dove Court	Ottawa Drive		
Eagle Drive	Overlook Drive		
Elkins Lane	Park Lane		
Gray Drive	Parran Drive		
Grover Lane	Pilot Way		
Harbor Drive	Pine Place		
Hilltop Road	Pine Lane		
Holly Way	Raine Road		
Huron Drive	River Terrace		
Iris Lane	River View Drive – Rousby Hall Southerly to Overlook Dr		
Iroquois Way	Riverview Drive – Rousby Hall Rd Northerly to end		
John Hansen Drive	Sachem Drive		
Johnson Court	River Terrace		

## Exhibit B

### CRITERIA FOR PUBLIC EASEMENT ROADS AND CONDITIONS OF USE OF STATE HIGHWAY USER REVENUES

#### Definitions

As used in this document, the following terms have the meanings indicated.

1. Association. A homeowners association that has applied for and been granted a special taxing district by the County.
2. County. The Board of County Commissioners of Calvert County or such agency of the Calvert County government as the sense of the use of the term shall imply.
3. County Allocation. The amount of highway user revenues that the County would have received without inclusion of any public easement roads in the County's Road Inventory Report.
4. County Road. A thoroughfare owned and maintained by the County that is included in the County Road Inventory Report.
5. County Road Improvement Report. A list of County roads and public easement roads that the SHA has approved for determining the County's portion of HUR.
6. HUR. Highway user revenues as defined in Subtitle 4 of Title 8 of the *Transportation Article* of the *Annotated Code of Maryland*.
7. Public Easement Road. A road owned and maintained by an association that is included in the County's Road Inventory Report.
8. SHA. The State Highway Administration of the State of Maryland.

#### Road Acceptance Criteria

The following criteria must be met before privately owned roads will be added to county road inventory.

1. The road must be owned and maintained by an association.

2. The roads submitted for inclusion in the County's Road Inventory Report must meet the minimum requirements of the SHA and must be located within the boundaries of a special taxing district created by the County.

3. An easement for public use of the road must be offered to and accepted by the County.

4. Before a road shall be accepted as a public easement road, the association shall provide to the County a certificate of title issued by an attorney authorized to practice in the State of Maryland certifying that the association has clear and marketable title to the roadbed over which the easement will be granted; or, if the title is not clear and marketable, the name of the entities having an interest in the property and the nature of the interest.

### **Conditions for Use of HUR**

1. Provided all criteria are satisfied, the County shall disburse to an association a portion of the county's HUR. The amount to be distributed to the association shall be determined as follows:

a. Calculate the amount of HUR the County would have received without including the private easement roads in the County Road Improvement Report;

b. Calculate the amount of HUR the County will receive with the private easement roads included in the County Road Improvement Report;

c. Subtract the amount determined in subparagraph a from the amount determined in subparagraph b and distribute the difference to the associations on a pro-rata basis.

The pro rata distribution shall be based on the ratio that the mileage of public easement roads within a particular special taxing district bears to the mileage of all public easement roads within all special taxing districts. Attached Schedule 1 is an example of how the amount of HUR that could be available for distribution to associations will be calculated. This attachment is for illustrative purposes only and is not to be construed as an indication of actual disbursements to be made to an association.

2. To the extent the State forwards HUR to the County for the maintenance of the association's public easement roads, the HUR shall be passed through to the association by the County, as set forth in paragraph 1 above, less any County expenses relating in any way to the administration and processing of the HUR requests and disbursements from the HUR, including but not limited to inspections, verifications, and audits.

3. An association's portion of the County's HUR shall be distributed to the association within two weeks of receipt of the HUR by the County.

4. The association shall use HUR in accordance with Section 8-408 of the *Transportation Article* of the *Annotated Code of Maryland*, as amended from time to time.

5. On or before June 15<sup>th</sup> of each year, an association that receives HUR shall provide a statement to the Calvert County Department of Finance and Budget identifying the intended uses of the HUR for the next fiscal year and certifying that the HUR shall be put to those uses. All uses identified in the statement shall be limited to those listed in Section 8-408 of the *Transportation Article* of the *Annotated Code of Maryland*, as amended from time to time.

6. An association that receives the HUR from the County shall execute a written agreement to indemnify and hold the county harmless from all liability associated with the maintenance of the association roads included in the County's Road Inventory Report and the expenditure of the HUR.

7. Any employee of an association receiving HUR who shall have access to the HUR must be bonded or insured against fraud and dishonesty. Bonding shall be in place prior to the distribution of HUR and shall be in an amount not less than the amount the association is projected to receive. The association shall be identified as the insured in the bond.

8. Lists of roads and related deeds of easement that an association wishes to be accepted as a public easement road must be submitted to the Calvert County Department of Public Works by September 1 each year to be eligible for consideration for HUR for the following fiscal year.

9. The association shall complete and submit to the County by September 30 of each year, Part 12 of the Uniform Financial Report—Local Highway Finance Report Department of Transportation, provide all other necessary information regarding its public easement roads in the format(s) specified by SHA and the county and comply with all State requirements concerning the use of HUR.

10. Any HUR provided to the association shall not be substituted for any existing obligations of the association to fund roadway maintenance.

11. The association shall have an annual audit conducted of the financial records of the association with respect to the association's use of HUR. The auditor shall provide to the County by October 30<sup>th</sup> of each year a certification that the HUR were used in compliance with the certification previously issued by the association. The County shall have the right to review the financial records of the association pertaining



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to HUR if, in the County's sole discretion, it deems that such a review is necessary. The association shall present its financial records to the County within three business days of a request made to it by the County.

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County	County + Town Basis without STD mileage			County, Town, Special Tax District Basis			Total Estimated Distribution - Calvert County, Towns, Special Tax District- With STD miles	Total Estimated Distribution - Calvert County, Towns. Without STD miles	Increase in distribution due to STD miles	Total Estimated Distribution - Calvert County and Special Tax District only (no towns)- With STD miles	Increase in distribution related to the STD miles as a percentage of the County and STD total distribution (col. c/d)
	Registrations	Mileage	Allocation	Registrations	Mileage	New Allocation					
	FY 2007	FY 2007	Factor	FY 2007	FY 2007	Factor					
Allegheny	63,120	724.33	0.02265683	63,120	724.33	0.02260454	(a)	(b)	(c)	(d)	(e)
Anne Arundel	515,673	1,788.21	0.09723035	515,673	1,788.21	0.09710124					
Baltimore	660,261	2,629.08	0.13171633	660,261	2,629.08	0.13152650					
Calvert	87,000	462.84	0.01983300	87,000	542.84	0.02149614	\$ 6,448,842	\$ 5,949,899	\$ 498,943	\$ 6,061,912	8.2%
Caroline	35,540	538.08	0.01552850	35,540	538.08	0.01548965					
Carroll	173,240	1,136.04	0.04405507	173,240	1,136.04	0.04397305					
Cecil	90,384	659.48	0.02440569	90,384	659.48	0.02435808					
Charles	132,712	745.33	0.03109007	132,712	745.33	0.03103626					
Dorchester	31,748	641.14	0.01728637	31,748	641.14	0.01724007					
Frederick	216,844	1,544.90	0.05775929	216,844	1,544.90	0.05764775					
Garrett	32,433	744.36	0.01956142	32,433	744.36	0.01950767					
Harford	225,759	1,154.70	0.05047922	225,759	1,154.70	0.05039585					
Howard	244,524	965.48	0.04860624	244,524	965.48	0.04853653					
Kent	20,815	302.07	0.00881655	20,815	302.07	0.00879474					
Montgomery	717,989	2,609.30	0.13792029	717,989	2,609.30	0.13773189					
Prince George's	627,417	2,271.03	0.12032813	627,417	2,271.03	0.12016415					
Queen Anne	52,060	558.54	0.01785971	52,060	558.54	0.01781938					
St Marys	95,134	602.17	0.02373129	95,134	602.17	0.02368781					
Somerset	20,395	376.60	0.01035429	20,395	376.60	0.01032710					
Talbot	41,372	446.10	0.01424051	41,372	446.10	0.01420830					
Washington	133,904	1,020.60	0.03708440	133,904	1,020.60	0.03701071					
Wicomico	83,374	881.06	0.02831628	83,374	881.06	0.02825266					
Worcester	55,222	695.65	0.02114017	55,222	695.65	0.02108994					
Totals	4,356,920	23,497.09	1.00000000	4,356,920	23,577.09	1.00000000					

Calculations are as follows:

(a)= Total estimated statewide receipts multiplied by the allocation factor with the STD miles included.

(b)= Total estimated statewide receipts multiplied by the allocation factor without the STD miles included.

(c)= column (a) minus (b)

(d)= column (a) multiplied by the "towns" factor per the MDT report.

(e)= column (c) divided by column (d). This is the factor that will be used to distribute the monthly HUR funds.